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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,034	01/03/2001	Neil Gough	106-00	1998

23713 7590 10/29/2002

GREENLEE WINNER AND SULLIVAN P C
5370 MANHATTAN CIRCLE
SUITE 201
BOULDER, CO 80303

EXAMINER

WU, SHEAN CHIU

ART UNIT

PAPER NUMBER

1756

DATE MAILED: 10/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,034

Applicant(s)

GOUGH ET AL.

Examiner

Shean C Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-19,26,28,32,35 and 39-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,20-25,27,29-31,33,34,36-38,50 and 51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other:

DETAILED ACTION

1. Claims 9-19, 26, 28, 32, 35 and 39-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.

2. Applicant's election with traverse of the species of formula 1598 (phenylpyrimidine core with fluorinated alkyl and alkenyl at two side groups) on page 56 in this specification in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the generic claims 1 and 23 are allowable. This is not found persuasive because the claims 1 and 23 are not allowable.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. Claims 1-8, 20-25, 27, 29-31, 33-34, 36-38 and 50-51 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for core rings A, B and C in Scheme 1 (pages 30-35), does not reasonably provide enablement for other than the teaching in Scheme 1. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The claims are broader than the enabling disclosure. The claimed invention is not supported by examples commensurate in scope. The claimed compound and composition thereof represented by the formula (I) has enormous permutations. No properties are general specified for most of compounds. There are no teachings how one of the ordinary skill in the art can synthesize the compound represented by formula (I) except the compounds in Scheme 1

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exemplified in the specification. Also, the R and R' groups do not have limitation on carbon atoms in alkyl. LC is an unpredictable art. Without knowledge of the properties of species commensurate in scope with the claims, Applicants invite the skilled artisan to first synthesize and then test the species before a use can be undue. The properties of LC vary greatly with the number and type of rings, bonding, lateral and terminal substituents and polarities. All govern the properties of the LC and mixture thereof, which further determine the utility in one of a multitude of functionally distinct compositions and displays for optical applications. Applicants claim offer little more than an invitation to experiment or even presupposing the species call can be readily made.

Allowable Subject Matter

4. The elected compound is allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

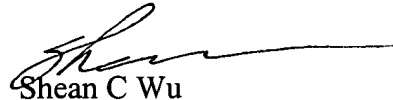
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C Wu whose telephone number is 703-308-3956. The examiner can normally be reached on Monday-Friday 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 703-308-2464. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Shean C Wu
Primary Examiner
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